

MATTER OF SOLIS-DAVILA

In Deportation Proceedings

A-10816558

Decided by Board April 28, 1971

The departure foreign of an alien while an order of deportation was outstanding effectively executed that order notwithstanding a petition for review of the deportation order under section 106 of the Immigration and Nationality Act, as amended, was pending at the time of departure.

CHARGE:

Order: Act of 1952—Section 241(a) (1) [8 U.S.C. 1251(a) (1)]—An alien who at time of entry was excludable as one who had been arrested and deported, consent to apply or reapply for admission not having been granted by the proper authority under section 212(a) (17) of the Act.

ON BEHALF OF RESPONDENT:

Joseph J. Rey, Esquire
543 Magoffin Avenue
El Paso, Texas 79901

ON BEHALF OF SERVICE:

William F. Weinert
Trial Attorney

Respondent, through counsel, appeals from an adverse order of the special inquiry officer dated February 16, 1971, directing deportation to Mexico on the charge set forth above.

Respondent was first ordered deported by a decision of the special inquiry officer dated May 25, 1970, on the ground that he had entered the United States without inspection. Section 241(a) (2) of the Immigration and Nationality Act (8 U.S.C. 1251(a) (2)).

On appeal, this Board entered an order dated June 18, 1970 dismissing the appeal. The following month, respondent filed a petition for review of that order in the United States Court of Appeals for the Fifth Circuit. Respondent was thereafter located in Mexico on or about September 11, 1970, allegedly preparing to smuggle aliens into the United States. He reentered the United States and deportation proceedings were again instituted and respondent was found deportable on the charge set forth above. Re-